

Conditional Use Permit

Description of Project: Viresco Energy Synthetic Fuel Research

Designated Zone: M2 (Light Manufacturing)

This Conditional Use Permit is issued to:

Jim Guthrie

Name of Applicant/Owner

Approximately 400 E. Kane Plex Drive

Address of Conditional Use Site

Kanab

City

Utah

State

84741

Zip

Application Date: November 22, 2010

Completed File Date: _____

This Conditional Use Permit was reviewed by the Planning Commission on January 13, 2011; January 20, 2011; January 27, 2011; May 17, 2011; and June 21, 2011 and approved by the Planning Commission on July 19, 2011. The permit authorizes the following conditional use: a 60 foot gasifier and a 67 foot exhaust – plus the additional height of required and approved flare enclosures – (hereafter the “Stacks”), pursuant to Chapter(s) 4-12, 8 and 15-3 of the Kanab City Land Use Ordinances.

The conditions listed below have been imposed by the Planning Commission to mitigate the reasonably anticipated detrimental effects of the proposed conditional use. The conditional use must conform to these conditions, as well as all applicable standards contained in Chapter 8 of the Kanab City Land Use Ordinances (listed on back of this permit), or the permit is subject to suspension pursuant to Chapter 8-9 of the Kanab City Land Use Ordinances.

Conditions:

1. Any and all discharge from the Stacks shall be monitored by the appropriate state and federal agencies for quality and all discharge therefrom will be appropriately disposed consistent with agency regulations and standards.
2. All emissions and exhaust levels from the stacks shall comply with all requirements of the Utah Division of Air Quality.

3. The applicant shall cooperate with the Kanab City building inspector to design the lighting of all exterior portions of the building, including the Stacks, to minimize glare and light contamination of the night sky while maintaining compliance with applicable federal and state safety standards.
4. The exterior color of the Stacks will be painted an earth tone color to be approved by the Kanab City building inspector, subject to federal and state safety regulations.
5. The design and construction specifications for the Stacks will be designed, submitted, and stamped by a Professional Process Engineer duly licensed by the State of Utah and shall include as part of the design an enclosed gas flare or other approved alternative for the purpose of controlling the emission of odors and to ensure that the flare not be visible in any event.
6. The Stacks design must be submitted to the Kanab City Fire Chief for approval to ensure the fire suppression system is appropriate and consistent with the applicable fire codes.
7. The applicant agree to terms with the Kanab City Council to assure height compliance with the underlying zone in the event the stacks cease construction or operation for a period of 12 consecutive months without the approval of a 6 month extension by the Kanab City Planning Commission.

General Standards (see Chapter 8 of the Kanab City Land Use Ordinances):

1. The Planning Commission or City Council shall approve a Conditional Use Permit if reasonable conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed conditional use in accordance with applicable standards.
2. In approving any Conditional Use Permit the Planning Commission or City Council may impose conditions deemed necessary to protect the public welfare, ensure compatibility with other uses in the vicinity, and ensure that the negative impact of the proposed conditional use on the surrounding uses and public facilities is minimized.
3. In approving or recommending approval of a conditional use permit, the Kanab City Planning Commission or City Council shall find,
 - a. That the proposed conditional use is necessary or desirable and will contribute to the general well-being of the community.
 - b. That the conditional use will not be detrimental to the health, safety, or welfare of persons residing, or working in the vicinity, or injurious to property or improvements in the vicinity.
 - c. That the proposed conditional use will comply with the regulations of this Ordinance.
 - d. That the proposed conditional use is in harmony with the intent and purpose of the Kanab City Master Plan or that the plan shall have first been amended through public hearing.

Specific Standards (see Chapter 15-3 and 4-12 of the Kanab City Land Use Ordinances):

1. Chapter 15-3
 - a. The maximum height for the M2 Manufacturing Zone is three stories or 40 feet.
2. Chapter 4-12
 - a. Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers or other architectural features, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for purposes of providing additional floor space. All height exceptions listed in this section are subject to a conditional use permit.

Revocation of a Conditional Use Permit (Chapter 8-9 of the Kanab City Land Use Ordinances):

A conditional use permit may be revoked upon failure to comply with the conditions imposed with the original approval of the permit and the applicant shall be so notified of revocation by the City of Kanab. The permit may be reinstated upon determination by the Kanab City Planning Commission that the cause for revocation has been corrected and that the applicant intends to proceed according to the plans approved by the Kanab City Planning Commission at the time the permit was originally issued, or as they might have been properly amended by the Kanab City Planning Commission from time to time during the period of the conditional use. Revocation or reinstatement of a conditional use permit for a Planned Development, Mobile Home Subdivision, Mobile Home Park, or Recreational Coach Park is the responsibility of the Kanab City Council.

Background:

Viresco Energy Synthetic Fuel Research (hereafter “Viresco Energy”) submitted a conditional use permit in order to construct the Stacks in excess of the building height requirements provided in Chapter 15-3 of the Kanab City Land Use Ordinances. The Kanab City Planning Commission (hereafter “Planning Commission”) considered Viresco Energy’s Conditional Use Permit and Site Plan concurrently.

The Planning Commission held meetings to discuss Viresco Energy’s Conditional Use Permit and Site Plan on January 13, 2011 and January 20, 2011. The focus of these meetings was to determine what concerns the Planning Commission had and present the applicant with questions to be addressed. After each meeting, the Planning Commission presented the applicant with multiple questions concerns: odors; glare; fire or explosive hazards; first

responders; radio or electrical disturbances; emissions; fly ash, coal dust, vapors, and gasses; liquid or solid wastes; water use and disposal; testing; days of operation; capacity; noise; storage; permits; inspection; EIS; economic benefits; and would the use fit with current land use ordinances. See Planning Commission minutes. Some of these questions addressed issues for the approval of Viresco Energy's Site Plan while others addressed issues for Viresco Energy's Conditional Use Permit.

At a meeting held on January 27, 2011, the Planning Commission questioned Jim Guthrie, Josh Beazer from TC Engineering, and Tim Andrus and Paul Wright from the Utah Department of Environmental Quality. See Planning Commission minutes. Mr. Guthrie answered the Planning Commission's questions regarding the project. In addition, engineer Josh Beazer provided the Planning Commission with explanations regarding the project from an engineering standpoint. Tim Andrus and Paul Wright discussed the environmental requirements. The Planning Commission tabled Viresco Energy's Conditional Use Permit until the Planning Commission could consider further evidence.

On or about April 1, 2011, Alpha Engineering provided the Planning Commission with a response letter from Viresco Energy. See Alpha Engineering's letter dated April 1, 2011 and the attachments thereto. Viresco Energy's response letter addressed the following issues: odors; glare; fire and explosion hazards/emergency services; radioactivity or electronic disturbances; smoke; fly ash, dust, fumes, vapors, gases, and other forms of air pollution; coal and other "feed stocks;" and liquid and solid waste. Id. Viresco Energy's responses were considered by the Planning Commission at the May 17, 2011 meeting. See Planning Commission minutes. The Planning Commission was satisfied that Viresco Energy's response letter addressed most of the Planning Commission's concerns; however, the Planning Commission requested additional information regarding odors and explosion hazards. Accordingly, the Planning Commission granted Viresco Energy's Site Plan but tabled the approval of Viresco Energy's Conditional Use Permit until the additional information was received and reviewed.

On or about June 9, 2011, Alpha Engineering provided the Planning Commission with a document answering the Planning Commission's questions regarding odors and explosion risks. See Alpha Engineering's letter dated June 9, 2011. Alpha Engineering's response was based upon its communication with the University of California, Riverside and Idaho National Laboratories. Id. Alpha Engineering's response was reviewed by the Planning Commission at the June 21, 2011 meeting where the Planning Commission found the responses satisfactory. See Planning Commission minutes.

Chapter 8-6 of the Kanab City Land Use Ordinances provides that the Planning Commission shall approve a Conditional Use Permit if reasonable conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed conditional use. After multiple meetings and a review of all of the Kanab City Land Use Ordinances, the facts specific to this project, and the responses and all materials provided by Viresco Energy and Alpha Engineering, the Kanab City Planning Commission will grant the conditional use permit of the applicant, subject to certain conditions imposed and deemed necessary to protect the public welfare, ensure compatibility with other uses in the vicinity, and ensure that the negative impact of the proposed conditional use on the surrounding uses and public facilities is minimized. Accordingly, the Planning Commission hereby adopts the following findings in support of the issuance of the conditional use permit, subject to all conditions listed above.

Findings:

With the above mentioned conditions imposed as part of the grant, the Kanab City Planning Commission finds:

- 1. That the proposed use is necessary or desirable and will contribute to the general well-being of the community.**

The Planning Commission finds that the proposed conditional use is desirable and will contribute to the general well-being of the community. Granting Viresco Energy's Conditional Use Permit will make it possible for Viresco Energy to develop its research facility in an area of the city specifically designated by the General Plan to allow for research and development.

- 2. That the proposed use will not be detrimental to the health, safety, or welfare of persons residing, or working in the vicinity, or injurious to property or improvements in the vicinity.**

The Planning Commission finds that the impositions of the above-mentioned conditions will ensure that the proposed conditional use will not be detrimental to the health, safety, or welfare of persons residing, or working in the vicinity, or injurious to property or improvements in the vicinity.

- 3. That the proposed use will comply with the regulations of this Ordinance.**

The Planning Commission finds that the proposed conditional use will comply with the regulations in the Kanab City Land Use Ordinances, including chapters 4-12 and 8-1.

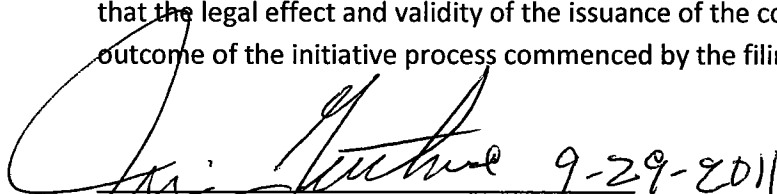
4. That the proposed use is in harmony with the intent and purpose of the Kanab City Master Plan or that the plan shall have first been amended through public hearing.

The Planning Commission finds that the proposed use is in harmony with the intent and purpose of the Kanab City Master/General Plan as found in section 2.7.1.D.

Based upon the foregoing, The Kanab City Planning Commission hereby grants, subject to all conditions herein enumerated, a Conditional Use Permit as described on page 1 of this document.


Chairman Arlon Chamberlain Date

By signing below, I acknowledge that I understand and accept these conditions and the limitations of the Conditional Use Permit. I further understand that the Permit may be revoked for failure to adhere to the conditions found in this document, pursuant to Chapter 8-9 of the Kanab City Land Use Ordinances (reproduced on the back of this permit). I further understand that the legal effect and validity of the issuance of the conditional use permit is subject to the outcome of the initiative process commenced by the filing on June 1, 2011.


Jim Guthrie, Applicant Date

Note: This Permit is not valid until the original is signed and accepted by the applicant.